

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10cv10**

UNITED COMMUNITY BANK,)	
)	
Petitioner,)	
)	
Vs.)	ORDER
)	
CHARLES D. McCARTHY; JENNIFER)	
OBIORA; and VICTORIA G.)	
SCHMEHL,)	
)	
Respondents.)	
_____)	

THIS MATTER is before the court on petitioner's Motion for Summary Judgment as to respondent Jennifer Obiora (hereinafter "respondent"), who is proceeding *pro se*. In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), respondent, who is proceeding *pro se*, is cautioned that she carries a heavy burden in responding to a motion for summary judgment. Rule 56(e), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

This language means that if the respondent has any evidence to offer to show that

there is a genuine issue for trial, she must now present it to this court in a form which would otherwise be admissible at trial, i.e., in the form of affidavits or unsworn declarations. An affidavit is a written statement under oath; that is, a statement prepared in writing and sworn before a notary public. An unsworn statement, made and signed under the penalty of perjury, may also be submitted. Affidavits or statements must be presented by respondent to this court within the time allowed. As stated by Rule 56(e), respondent's failure to respond may result in the action being dismissed by way of summary judgment.

ORDER

IT IS, THEREFORE, ORDERED that respondent respond to petitioner's Motion for Summary Judgment (#4) as herein provided not later than April 19, 2010.

Signed: April 2, 2010

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Dennis L. Howell
United States Magistrate Judge

